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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,607	10/27/2006	Martin Kurth	16-938- P/US	2801
26294 7590 12/22/2010 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVELAND, OH 44114				
EXAMINER WRIGHT, MADISON L				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
12/22/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,607

Applicant(s)

KURTH ET AL.

Examiner

Madison L. Wright

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitations "the area", "the distance", "the bottom side", "the thickness", and "the exterior margin" in lines 4, 10, 12, 12, and 17 of claim 1. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 2 recites the limitation "the thickness" in lines 2-3 of claim 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 3 recites the limitation "the direction" in line 2 of claim 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,290,536 to Morel ("Morel").

This figure, now referred to as Morel annotated Fig. 3, used for the rejection of claims 2 and 3 has been replicated below, and the Examiner has added reference points for ease of explanation, and said reference points will be used for the rejection of claims 2 and 3 below.

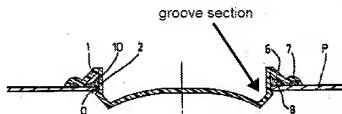


FIG.3

As to claim 1, Morel teaches closure cap for sealing an opening in a base part (panel P), with an exterior marginal web (concave bottom 5) that can be inserted into the opening (aperture O), with a shielding section (groove or channel 7) that protrudes past the marginal web (Fig. 1), and with a hot-melt adhesive (outer bead 9) that is arranged in the area of the shielding section (Fig. 1) and is deformable in a plastic manner when heated above a softening temperature (col. 2, lines 43-51), whereby configured on the marginal web is an abutment arrangement (entry beveled portion 3) that grips the base part when the closure cap is inserted into the opening (Fig. 2), whereby a joint zone (barrel 2) having a flexural rigidity that is reduced versus that of the shielding section is configured between the marginal web and the shielding section (Fig. 1), and whereby the distance between gripping contact areas (clipping portions 4) of the abutment arrangement and the bottom side of the hot-melt adhesive, which faces

the marginal web, is smaller than the thickness of the base part in the marginal area of the opening such that an initial tension is created in the joint zone when the closure cap is inserted into the opening (Fig. 3), wherein present between the shielding section and the joint zone is a groove-like transition zone (crown portion 6), which is filled with hot-melt adhesive (thermofusible ring 8) and which is open towards the exterior margin of the shielding section (Fig. 1).

As to claim 2, Morel teaches closure cap according to claim 1, wherein, the joint zone exhibits a groove section (groove section, Morel annotated Fig. 3), the thickness of material of which is reduced versus adjacent interior areas (Morel annotated Fig. 3).

As to claim 3, Morel teaches closure cap according to claim 2, wherein the groove section (groove section, Morel annotated Fig. 3) is open in the direction pointing away from the marginal web (Morel annotated Fig. 3).

As to claim 4, Morel teaches closure cap according to claim 1, wherein the abutment arrangement exhibits snap-in catches (clipping portions 4) that can move transversely to the marginal web and are connected with the marginal web (Fig. 1).

As to claim 5, Morel teaches closure cap according to claim 1, wherein the abutment arrangement has a number of sawtooth-like projections configured on the marginal web (Fig. 4).

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morel in view of U.S. Patent No. 4,588,105 to Schmitz et al. ("Schmitz").

As to claim 6, Morel teaches closure cap according to claim 4, but does not teach further including at least one recess (10) that extends entirely through the marginal web (5) and allows the snap-in catches (8) to move transversely to the marginal web (5).

Schmitz teaches a sealing plug 1 with guide elements 4 and a skirt portion 5 where there is a recess between the guide elements and the skirt portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the recess of Schmitz to the cap as taught by Morel to make the cap easy to install (Schmitz, col. 1, lines 67-68).

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morel in view of U.S. Patent No. 4,560,083 to Danico ("Danico").

As to claim 7, Morel teaches closure cap according to claim 2, but does not teach wherein the joint zone (3) terminates at a position that is spaced from the base part (13) in a longitudinal direction a distance that is smaller than the distance between the shielding section (4) and the base part (13) in the longitudinal direction.

Danico teaches a cover plate A that is fixed to a panel member B where the plate has a rib 20 and a first portion 38 which is folded into the recess 24. As seen in Fig. 4, the distance between the bottom of the rib and the panel is smaller than the distance between the first portion and the panel.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rib closer to the panel of Danico to the cap as taught by Morel to enhance the sealing results (Danico, col. 1, lines 56-57).

Response to Arguments

11. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madison L. Wright whose telephone number is 571-270-7427. The examiner can normally be reached on Monday thru Friday, 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781

/M. L. W./
Examiner, Art Unit 3781